APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/439,057	11/12/1999	PAUL LEO FASO	93091.01	1185

3490   7590   02/12/2003

DOUGLAS T. JOHNSON
MILLER & MARTIN
1000 VOLUNTEER BUILDING
832 GEORGIA AVENUE
CHATTANOOGA, TN 37402-2289

EXAMINER
PUNIT, PRAKASH C

ART UNIT	PAPER NUMBER
2175	

DATE MAILED: 02/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-14_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-14_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

    DOV POPOVICI
    SUPERVISORY PATENT EXAMINER
    TECHNOLOGY CENTER 2100

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _2_ .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: .

DETAILED ACTION

Claim Objections

1.   Claim 13 is objected to because of the following informalities:

In claim 13, line 3, the claim recitation "corresponding the selected" should be --

corresponding to the selected--. Appropriate correction is required.

Information Disclosure Statement

2.   The references cited in the IDS, dated 11-12-1999, Paper No. 2, have been considered.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 1-6, 8-10 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable

over De Bonet (U.S. Patent No. 5,852,823) in view of Walker et al. (U.S. Patent No. 5,794,207).

As to claim 1, De Bonet teaches an apparatus for facilitating the selection of digital

images, comprising:

a storage device (see Fig.2, see column 10, lines 37-38); and

a processor connected to the storage device (see Fig. 2, element 224, see column 10, lines 31-

39), the storage device storing a program for controlling the processor (see column 10, lines 38-

45); and

the processor operative with the program (see column 11, lines 5-10) to:

receive search criteria regarding the subject matter of digital images from a user (see column 11,

lines 17-23);

make one or more base digital images satisfying the search criteria available for the user to view

(see column 22, line 51-60) ;

receive input from the user to select a base digital image (see column 11, lines 24-32, where

"base digital image" is read on "query image");

display a plurality of derivative images corresponding to the base digital image selected by the

user (see column 7, lines 3-6, also column 8, lines 37-45);

and

receive input from the user to elect one or more derivative images by the user (see column 11,

lines 28-35).

De Bonet does not teach acquisition.

Walker et al. teaches acquisition (see Abstract, see Fig. 5, also see column 8, lines 27-

32).

Therefore, it would have been obvious to a person having ordinary skill in the art at the

time the invention was made to have modified De Bonet to include acquisition.

It would have been obvious to a person having ordinary skill in the art at the time the

invention was made to have modified De Bonet by the teachings of Walker et al., because having

acquisition capability in the system, enables the seller of the product to attract more potential

buyers and additionally results in substantial savings in time and money to both the parties (see

Walker et al., column 2, lines 28-33).

As to claim 2, De Bonet as modified teaches a method, wherein the derivative images

further comprise a plurality of pre-modified variations of the selected base digital image (see

column 8, lines 52-59).

As to claim 3, De Bonet as modified teaches a method, wherein the derivative images

have been created prior to the user's selection of the base digital image and are stored in the

storage device (see column 8, lines 36-45).

As to claim 4, De Bonet as modified teaches a method, wherein the derivative images

further comprise the selected base digital image (see column 15, lines 1-7).

As to claim 5, De Bonet as modified teaches a method, further comprising the processor

operative with the program to make the elected derivative image available to the user to

download (see column 11, lines 32-37, where "download" is read on "other mechanism").

As to claim 6, De Bonet as modified does not teach a method, further comprising the

processor operative with the program to: receive payment information from the user; and

process the payment information to finalize the acquisition of the elected derivative image.

Walker et al. teaches a method, further comprising the processor operative with the

program to: receive payment information from the user (see column 8, lines 42-56); and

process the payment information to finalize the acquisition (see column 21, lines 27-37).

Therefore, it would have been obvious to a person having ordinary skill in the art at the

time the invention was made to have modified De Bonet to include a processor operative with

program to: receive payment information from the user; and process the payment information to

finalize the acquisition of the elected derivative image.

It would have been obvious to a person having ordinary skill in the art at the time the

invention was made to have modified De Bonet by the teachings of Walker et al., because having

acquisition capability in the system, enables the seller of the product to attract more potential

buyers and additionally results in substantial savings in time and money to both the parties (see

Walker et al., column 2, lines 28-33).

As to claim 8, De Bonet teaches a method for using a computer to facilitate the selection

of digital images (see Abstract), comprising:

inputting into the computer search criteria regarding the subject matter of digital images (see

column 7, lines 38-41, also see column 11, lines 17-23);

outputting one or more base digital images which satisfy the search criteria (see column 2, lines

55-61, also see column 15, lines 1-4, where "base digital image" is read on "query image");

inputting into the computer a selection of one or more of the base digital images (see column 11,

lines 24-28, also see column 13, lines 15-19, where "base digital image" is read on "query

image");

outputting a plurality of derivative images corresponding to the selected base digital image (see column 11, lines 28-32);

inputting into the computer an election of one or more derivative images by a user (see column 11, lines 32-37); and

outputting one or more elected derivative images (see column 11, lines 32-37) by the user.

De Bonet does not teach acquisition.

Walker et al. teaches acquisition (see Abstract, see Fig. 5, also see column 8, lines 27-30).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified De Bonet to include acquisition.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified De Bonet by the teachings of Walker et al., because having acquisition capability in the system, enables the seller of the product to attract more potential buyers and additionally results in substantial savings in time and money to both the parties (see Walker et al., column 2, lines 28-33).

As to claim 9, De Bonet as modified teaches a method, wherein the derivative images have been created prior to the selection of the base digital image and are stored in a storage device of the computer (see column 22, line 60 through column 23, line 8).

As to claim 10, <u>De Bonet</u> as modified teaches a method, wherein the derivative images further comprise the selected base digital image (see column 15, lines 1-7).

As to claim 12, <u>De Bonet</u> as modified teaches a method, wherein the step of outputting one or more elected derivative images by the user further comprises the steps of: the elected derivative image; and outputting the elected derivative images to the user (see column 23, lines 5-8).

<u>De Bonet</u> as modified does not teach acquisition by the user further comprises the steps of: inputting into the computer payment information; outputting payment authorization;

<u>Walker et al</u>. teaches acquisition by the user further comprises the steps of: inputting into the computer payment information (see column 8, lines 42-56); outputting payment authorization (see column 13, lines 39-44).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified <u>De Bonet</u> to include elected derivative images for acquisition by the user further comprises the steps of: inputting into the computer payment information; outputting payment authorization for the elected derivative image.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified <u>De Bonet</u> by the teachings of <u>Walker et al.</u>, because having acquisition capability in the system, enables the seller of the product to attract more potential buyers and additionally results in substantial savings in time and money to both the parties (see <u>Walker et al.</u>, column 2, lines 28-33).

As to claim 13, <u>De Bonet</u> as modified teaches a method, wherein the step of outputting a

plurality of derivative images corresponding to the selected base digital image (see column 8,

lines 37-45) further comprises the steps of:

retrieving the derivative images corresponding the selected base digital image from a storage

device of the computer (see column 22, lines 32-44); and

displaying the derivative images upon a video monitor of the computer (see column 22, lines 46-

60).

As to claim 14, <u>De Bonet</u> as modified teaches a method, wherein the step of outputting

one or more base digital images which satisfy the search criteria further comprises the steps of:

searching a database of base digital images in the computer based on the search criteria (see

column 23, line 63 through column 24, line17);

displaying the base digital images which satisfy the search criteria upon a video monitor of the

computer (see column 22, line 46-55).

5.   Claims 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over <u>De Bonet</u>

(U.S. Patent No. 5,852,823) as applied to claims 1-6, 8-10, and 12-14 above, and further in view

of <u>Shaffer et al</u>. (U.S. Patent No. 6,389,181).

As to claims 7 and 11, <u>De Bonet</u> as modified does not teach a method, further comprising

the steps of:

inputting into the computer a selection of a special effects tool; and

utilizing the special effects tool to modify the elected derivative image.

Shaffer et al. teaches a method, further comprising the steps of:

inputting into the computer a selection of a special effects tool (see Fig. 4, see column 10, lines 1-17); and

utilizing the special effects tool to modify the elected derivative image (see column 2, lines 5-15).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified De Bonet to include steps of: inputting into the computer a selection of a special effects tool and utilizing the special effects tool to modify the elected derivative image.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified De Bonet by the teachings of Shaffer et al., because having a special effects tool built into the system, provides the consumers with a convenience of customizing the desired image without having to spend time and money looking for a special tool out somewhere, thus enabling the consumer to achieve a high-quality product at a reasonable cost (see Shaffer et al., see column 2, lines 32-36).

Conclusion

5.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of art with respect to method of

selecting and retrieving digital images in general:

U.S. Patent No. 5,794,207 to <u>Walker et al</u>.

U.S. Patent No. 5,852,823 to <u>De Bonet</u>

U.S. Patent No. 6,389,181 to <u>Shaffer et al</u>.

6.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Prakash Punit whose telephone number is (703) 305-5914. The

examiner can normally be reached on Mondays – Fridays from 9:45 am to 6:15 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Dov Popovici, can be reached on (703) 305-3830. The fax numbers of the group is

(703) 746-7239.

Any inquiry of a general nature or relating to the status of this application should be

directed to the Group receptionist whose telephone number is (703) 305-9600.

DOV POPOVICI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Prakash Punit
Patent Examiner
Art Unit 2175

February 7, 2003